TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1908.

No. 243.

WILLIAM H. POPE, PLAINTIFF IN ERROR,

vs.

JOHN M. C. WILLIAMS AND JOHN W. HARPER, CONSTITUTING THE BOARD OF REGISTRY FOR ELEVENTH DISTRICT OF MONTGOMERY COUNTY, MARYLAND.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF MARYLAND.

FILED OCTOBER 7, 1908.

(19,164.)

(19,154.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 503.

WILLIAM H. POPE, PLAINTIFF IN ERROR,

vs.

JOHN M. C. WILLIAMS AND JOHN W. HARPER, OFFICERS OF REGISTRATION, CONSTITUTING THE BOARD OF REGISTRY FOR ELECTION DISTRICT No. 7 OF MONTGOMERY COUNTY, MARYLAND.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF MARYLAND.

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1 *Record.*

In the Court of Appeals of Maryland.

WILLIAM H. POPE
vs.
JOHN M. C. WILLIAMS, JOHN W. HARPER, Board of Registry, &c. } No. —.

Appeal from the circuit court for Montgomery county.

William H. Pope, for appellant.
Bowie F. Waters, Robert B. Peter, for appellee.
Filed October 8, 1903.

2 The Court of Appeals of Maryland.

STATE OF MARYLAND, *sct:*

At a court of appeals for the State of Maryland, begun and held for the said State, at the city of Annapolis, on the first Monday in October, being the fifth day of said month, in the year of our Lord one thousand and nine hundred and three, and of the Independence of the United States the one hundred and twenty seven—present Chief Judge McSherry. Page. Pearce. Fowler. Boyd. Jones. Briscoe. Schmucker—among others the following proceedings to wit:

3 *Petition for Allowance of Writ of Error.*

In the Court of Appeals of Maryland.

WM. H. POPE
vs.
JOHN M. C. WILLIAMS ET AL.

Petition for allowance of writ of error from the Supreme Court of the United States, Wm. H. Pope, pet.

Writ of error allowed, Nov. 3. 1903. Bond for costs only in penal sum of $250—

MELVILLE W. FULLER,
Chief Justice of the United States.

Filed November 4th 1903.

4 *Petition for Allowance of Writ of Error.*

In the Court of Appeals of Maryland.

WILLIAM H. POPE
vs.
JOHN M. C. WILLIAMS and JOHN W. HARPER, as the Board of Registry of Election District No. 7 of Montgomery County, Maryland.

Petition for allowance of writ of error from the Supreme Court of the United States.

The petition of William H. Pope, appellant above named, respectfully shows:

In the transcript of record herewith submitted, the following facts appear:

The litigation in the Maryland courts was a statutory proceeding, instituted to obtain a reversal of the action of the appellees in refusing—on September 29, 1903—to register petitioner as a qualified voter.

5 At the time the application to be registered was made, petitioner had been a resident of Maryland from June 7, 1902, (when he removed into Montgomery county, in said State, from the District of Columbia) and the constitution of Maryland, as one of the conditions of qualifications imposed on would-be-voters, required a residence of one year in the State. The sole ground upon which the refusal to register petitioner was based, was that petitioner had not complied with the following act of the legislature of Maryland, approved on March 29, 1902, (sec. 25 B, art. 33, Md. Public Gen. Laws, 1902, p. 204):

"SECTION 25 B. All persons who after the passage of this act shall remove into any county of this State or into the city of Baltimore from any other State, district, or Territory, shall indicate

6 their intent to become citizens and residents of this State by registering their names in a suitable record book to be procured and kept for the purpose by the clerk of the circuit court for the several counties, and by the clerk of the superior court of Baltimore city; such record to contain their names, residence, age, and occupation, and the intent of such persons to become citizens and residents of this State shall date from the day on which such registry shall be so entered in such record book by the clerk of the circuit court for the county, or of the superior court of Baltimore city, as the case may be, into which county or city such person shall so remove from any other State, district or Territory. And no person coming into this State from any other State, district or Territory, shall

be entitled to registration as a legal voter of this State until one
7 year after his intent to become such legal voter shall be thus evidenced by such entry in such record book, and such entry or a duly certified copy thereof shall be the only competent and admissible evidence of such intent. And the clerk of the superior court of Baltimore city and the several courts of the several counties shall immediately, upon the passage of this act, procure a suitable record book for the recording therein of such entries arranged alphabetically under the names of such persons. For every person so registered, under the provisions of this section, they shall be entitled to demand and receive the sum of twenty-five cents, to be paid to said clerks by the mayor and city council of Baltimore and the county commissioners, respectively. A copy of such record, duly certified by said clerks, shall be evidence of the right of such person to registration as legal voters according to law, and each person so registered shall be entitled to such certified copy upon demand without charge."

8 In his petition filed in the circuit court of Montgomery county Maryland, (as well as on the arguments in the State courts) petitioner expressly assailed the validity of the above act, as being repugnant to stated implied guarantees and stated specific provisions of the Constitution of the United States, and a right and privilege (to wit, the status of resident and citizen of Maryland) was specially set up and claimed under the first section of the fourteenth amendment to the Constitution of the United States. The decision of the court of appeals of Maryland, which is complained of, was in favor of the validity of said statute and was against the right and privilege specially set up and claimed as aforesaid. The errors committed by said decision are set out with more particularity in the assignment of errors herewith presented.

9 Wherefore petitioner prays that a writ of error may be allowed in this behalf to the Supreme Court of the United States for the correction of the errors complained of, that the bond herewith submitted may be duly approved, and that a transcript of the record, proceedings, and papers in this cause, duly authenticated, may be ordered sent to the said Supreme Court of the United States.

Dated, Washington, D. C., November 2nd, 1903.

WM. H. POPE, *Petitioner.*

10 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the honorable the judges of the court of appeals of the State of Maryland, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court of appeals before you, or some of you, the highest court of law or equity of the said State in which a decision could be had in the said suit between William H. Pope, appellant, and John M. C. Williams and *and* John W. Harper, officers of registration, constituting the board of registry for election district No. 7 of Montgomery county, Maryland, appellees, wh rein was drawn in question the validity of a treaty
11 or statute of, or an *an* authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of a commission held under the United States, and the decision was against the title, rights, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission; a manifest error hath happened to the great damage of the said William H. Pope as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full — speedy justice done to the parties aforesaid in this behalf, do command you, if judg-
12 ment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the third day of November, in the year of our Lord one thousand nine hundred and three.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

Allowed by—
MELVILLE W. FULLER,
Chief Justice of the United States.

Filed November 4th, 1903.

13 *Citation.*

UNITED STATES OF AMERICA, *ss:*

To John M. C. Williams and John W. Harper, office of registration, constituting the board of registry for election district No. 7 of Montgomery county, Maryland, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington within 30 days from the date hereof, pursuant to a writ of error, filed in the clerk's office of the court of appeals of the State of Maryland, wherein William H. Pope is plaintiff in error, and you are defendants in error, to show cause, if any there by, why the judgment ren-
14 dered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Melville W. Fuller, Chief Justice of the United States this third day of November, in the year of our Lord one thous- nine hundred and three.

MELVILLE W. FULLER,
Chief Justice of the United States.

CITY OF WASHINGTON, *District of Columbia,* } *ss:*

On this eleventh day of November in the year of our Lord one thousand nine hundred and three, personally appeared William H. Pope, before me, the subscriber, Horace H. Westcott a notary public in and for the District of Columbia and makes oath that he
15 delivered a true copy of the within citation to John M. C. Williams and John W. Harper, on November 3rd, 1903, at Bethesda, in Montgomery county, Maryland.

WM. H. POPE.

Sworn to and subscribed the 11th day of November A. D. 1903.

[Seal of Horace H. Westcott, Notary Public for the District of Columbia.]

HORACE H. WESTCOTT,
Notary Public.

Fee paid by Wm. H. Pope. November 11—1903. 25c.
Filed Nov. 12th, 1903.

16 *Assignment of Errors.*

Assignment of errors (on application for allowance of writ of error from the Supreme Court of the United States), Wm. H. Pope, pl'ff in error.

Filed November 3rd, 1903.

In the Court of Appeals of Maryland.

WILLIAM H. POPE
vs.
JOHN M. C. WILLIAMS and JOHN W. HARPER, as the Board of Registry of Election District No. 7 of Montgomery County, Maryland.

Assignment of errors.

(Filed on application for allowance of writ of error from the Supreme Court of the United States.)

17 Now comes William H. Pope, the appellant above named, and for the purpose of having the decision and judgment of the court of appeals of Maryland in the above cause, reviewed upon writ of error from the Supreme Court of the United States, presents the following assignment of errors:

The court of appeals of Maryland erred in the decision and judgment rendered by it in the following particulars:

I.

In affirming, instead of reversing with directions, the order and judgment of the circuit court of Montgomery county, Maryland.

II.

In holding and deciding that act of the legislature of Maryland assailed in the above cause was a valid statute and was not
18 repugnant to fundamental and inalienable rights of citizens of the United States and to implied guarantees of the Constitution of the United States, whereby every citizen of the United States is entitled to remove into any State of the Union without being subjected, (because of removal after a particular date from another State, or from a district or Territory of the United States,) to the performance of offensive, vexatious and oppressive conditions as a prerequisite to the acquisition and enjoyment of civil rights and privileges.

III.

In holding and deciding that the act complained of was a valid statute, and did not operate an unjust discrimination against citizens

of the United States removing into Maryland after March 29th, 1902, and was not repugnant to that provision of the first section of
19 the fourteenth amendment to the Constitution of the United States which forbids a State to deny to any person within its jurisdiction the equal protection of the laws.

IV.

In holding and deciding that the law complained of was a valid statute, that it did not abridge or deny a right and privilege derived from the Constitution of the United States (to-wit, the status of resident an- citizen of Maryland), and that it was not repugnant to that portion of the first section of the fourteenth amendment to the Constitution of the United States, which declares that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

20 Wherefore, because of the above recited errors, it is prayed that the decision and judgment of the court of appeals of Maryland, rendered in the above entitled cause, be reversed, with direction.

WM. H. POPE,
Plaintiff in Error.

21 STATE OF MARYLAND, *Montgomery County,* } *To wit:*

In the Circuit Court for Montgomery County.

At a circuit court begun and held at the court house in the town of Rockville, in and for said Montgomery county, on the first Monday of June, it being the first day of the same month, in the year nineteen hundred and three.

Were present: The Honorable James B. Henderson, associate judge; John W. Collier, sheriff, and Thomas Dawson, clerk.

In the record of proceedings of said court among others were the following, viz:

On the 29th day of September, A. D. 1903, William H. Pope file- in court here the following petition, to-wit:

Petition to Revise Action of Board of Registry.

In the Circuit Court for Montgomery County.

WILLIAM H. POPE, Petitioner, *vs.* JOHN M. C. WILLIAMS and JOHN W. HARPER, Officers of Registration, Constituting the Board of Registry for Election District No. 7 of Montgomery County, Maryland, Respondents.	No. 442, Miscellaneous Petitions.

(Filed September 29th, 1903.)

To the honorable judges of said court:

The petition of William H. Pope respectfully shows:

Petitioner is forty-six years of age and upwards; was born
22 in the city of London, England; when less than a year old was brought by his parents to this country; he has ever since resided in the United States; and the father of petitioner became a naturalized citizen of the United States when petitioner was under the age of twenty one years, by reason whereof petitioner has been for many years a naturalized citizen of the United States.

On June 7, 1902, petitioner, with his wife and child, removed from the city of Washington, District of Columbia, into Montgomery county, in the State of Maryland, having then had and ever since and now having the intention of making the State of Maryland the permanent domicil of himself and his family and of becoming a citizen of said State; and ever since said June 7, 1902, petitioner has resided in the subdivision of Otterbourne, near Chevy Chase, in said Montgomery county, and in the seventh election district of said county.

Your petitioner further states that the respondents John M. C. Williams and John W. Harper are the duly appointed and qualified officers of registration, constituting the board of registry, for the aforesaid election district No. 7, of Montgomery county, Maryland; and, on September 29, 1903, commencing at the hour of eight o'clock in the morning, began a sitting at "Wilson's store, at Bethesda, in said county," for the purpose, among other things, of registering in the registry of voters of said election district "all persons who possess or will before the day of election next ensuing possess the requisite qualifications under the constitution of the State of Maryland and the laws made thereunder, entitling them to vote in said election district." At said sitting, petitioner made application to said board of registry to be entered as a qualified voter on the register of registries of voters of said election district, then and there

in the custody of said board. Said board, however, refused and declined to comply with said request, and assigned as the sole reason for such refusal that your petitioner did not, as required by section 25 B, of article 33, of the Code of Public General Laws of Maryland, (chapter 133, Laws 1902, page 204,) produce an exhibit to said board, as evidence of the intention of your petitioner to become a legal voter, an original entry, made one year prior to such application for registration as a voter, in a record book kept by the clerk of Montgomery county, Maryland, registering the intention of your petitioner to become a citizen and resident of Maryland, or a duly certified copy of said original entry.

Your petitioner admits that he did not within a year prior to said application for registration as a qualified voter, or at any time during the year 1902, in any manner, make or register, in the
23 office of or before the clerk of Montgomery county, Maryland, or in a record book kept by said clerk, a declaration of intention to become a citizen and resident of Maryland, such as is required by the aforesaid law to be made by persons who remove into the State of Maryland after March 29th, 1902, as a condition precedent to subsequent registration of such persons as qualified voters. Petitioner, however, claims and asserts that said section 25 B, of article 33, of the Code of Public General Laws of Maryland affords no justification for the said refusal to register your petitioner as a qualified voter, because said alleged law contravenes and is repugnant to the Constitution of the United States and the constitution of the State of Maryland, and is, therefore, null and void.

As grounds supporting the claim of the nullity of said law, petitioner states the following:

1. Said law, in substance, declares that, as respects the acquisition of the right to vote, no male citizen of the United States of the age of twenty-one years and upwards who may remove into the State of Maryland after March 29, 1902, with the intention of making said State his permanent domicil shall be deemed a citizen and resident of Maryland until he shall have made the declaration of intention required by said law—that is, has been duly naturalized as a citizen of Maryland; whereas, by necessary legal effect, section 1 of article I of the constitution of Maryland, declares that such a person on removing into Maryland with the intention aforesaid shall *ipso facto* become a citizen and resident of Maryland for all purposes.

2. Said law requires the existence of an intention to become a citizen and voter in a person removing into Maryland after March 29, 1902, as a qualification to registration as a qualified voter, and thereby adds a qualification additional to those prescribed in the constitution of Maryland, which is without the power of the legislature.

3. Said law as to the class aforesaid alters the constitutional requirement contained in section 1, of article I of the constitution of Maryland as to the period of time a citizen of Maryland shall reside

in the State in order to entitle him to become a voter, from one year to one year *after the making of the record declaration of intent to become a citizen and resident of Maryland required by said law.*

4. Said law is repugnant to the provision of section 5 of article I of the constitution of Maryland—which declares that "the General Assembly shall provide by law for a uniform registration of the names of all the voters in this State who possess the qualifications prescribed in this article"—because said law as to the class aforesaid adds to the qualifications for voting prescribed in article I
24 of the constitution of Maryland, and the provisions of said law are not directed to ascertaining when an applicant for registration who removed into Maryland after March 29, 1902, in fact became a citizen and resident of Maryland and possessed of the qualifications prescribed by the constitution of Maryland but arbitrarily prohibits any inquiry or investigation into the fact as to whether said applicant formed the intention to make the State of Maryland his permanent home before the date of the making of the record entry of intent required by said law.

5. Said law is also repugnant to the clauses of section 1 and section 5 of the constitution of Maryland, heretofore referred to, because, as a condition of permitting the class of persons heretofore referred to to become voters, said law imposes onerous and unreasonable burdens upon said persons, by compelling them to undergo the trouble, expense and loss of time consequent upon a visit to the county seat to declare and register their intention and requires them to preserve and exhibit to the officers of registration written evidence of such declararation of intent, and further compels those of said class who have already become citizens of Maryland by virtue of the Constitution of the United States and of Maryland, and who of necessity are residents of Maryland to stultify themselves and utter a falsehood by requiring them to declare that they intend *to become* such citizens and residents, thus impliedly declaring that they are not yet citizens and residents of the State. All which onerous and burdensome requirements, instead of facilitating the acquisition of the electoral franchise by those entitled to the same tends to impede, hinder and deter such individuals from attempting to acquire and avail of the right and operates an undue discrimination against the class of persons affected by said law.

6. Said law is repugnant to that portion of section 1 of the fourteenth amendment of the Constitution of the United States,—which declares that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, *and of the State wherein they reside*,"—because by said law it is in effect ordained that male citizens of the United States, of the age of twenty-one years and upwards, removing into the State of Maryland after March 29, 1902, with the intention of making said State their permanent domicil, shall not be treated as citizens or residents of Maryland, or given the rights and privileges of citizens

of Maryland, until they have been naturalized in the mode prescribed by said law.

7. Said law is also repugnant to that portion of section 1 of said fourteenth amendment to the Constitution of the United States which prohibits a State from denying any person within its
25 jurisdiction the equal protection of the laws,—because said law operates an unjust and unreasonable discrimination against citizens of the United States coming into the State of Maryland to permanently reside therein, after March 29, 1902, who may desire to become qualified voters therein.

8. Said law is also repugnant to the general spirit of the Constitution of the United States and the fundamental rights of citizens of the United States, which deny to a State the power to attach unreasonable or burdensome conditions to the free movement of citizens of the United States out of, into, and settlement within the confines of any State, district or Territory within the United States.

Your petitioner, therefore, respectfully prays this honorable court to revise the aforesaid action of said board of registry, and to order and direct that the name of your petitioner be entered as a qualified voter on the registry or registries of voters of election district No. 7, of Montgomery county, Maryland.

WILLIAM H. POPE, *Petitioner.*

(Filed Sept. 29, '03.)

TOWN OF ROCKVILLE, *County of Montgomery,* } ss:

William H. Pope, the petitioner above named, being duly sworn, deposes and says that the statements made in the foregoing petition by him subscribed are true.

WILLIAM H. POPE.

Subscribed and sworn to before me this 29th day of September, 1903.

THOMAS DAWSON,
Clerk of the Circuit Court for Montgomery Co.

(Filed Sept. 29, 1903.)

26 In the Circuit Court for Montgomery County.

WILLIAM H. POPE vs. JOHN M. C. WILLIAMS, JOHN W. HARPER, Officers of Registration, &c.	No. 442, Miscellaneous Petitions.

Ordered, this 30th day of September, in the year 1903, by the circuit court for Montgomery county and by authority thereof, that the foregoing petition be and the same is set down for hearing on

the 3rd day of October, A. D., 1903, at the hour of 10 o'clock, a. m., and that the clerk of this court be and he is hereby directed to issue a summons for John M. C. Williams and John W. Harper the board of registry for the 7th election district of said Montgomery county, requiring them and each of them to attend at said hearing in person or by counsel.

JAMES B. HENDERSON,
Judge of the Circuit Court.

(Filed Sept. 30, 1903.)

1903, October 7th—General demurrer.
1903, October 7th—Demurrer sustained.
1903, October 7th—Judgment that the petition be dismissed with costs to the defendants.
1903, October 7th—Line to enter appeal to the court of appeals and order to make and forward transcript of record filed.

In the Circuit Court for Montgomery County.

WILLIAM H. POPE, Petitioner,
vs.
JOHN M. C. WILLIAMS ET AL., at the Board of Registry of Election District No. 7.
} No. 442, Miscellaneous Petitions.

Thomas Dawson, Esq., clerk of court:

27 Enter an appeal from the judgment herein to the court of appeals, and make out and transmit a transcript of the record of the proceedings in this case to the clerk of said court.

WM. H. POPE,
Petitioner, Pro Se.

Dated October 7, 1903.

BOWIE F. WATERS,
ROBERT B. PETER,
For Board of Registry.
WILLIAM H. POPE,
For Petitioner.

STATE OF MARYLAND, *Montgomery County,* } *To-wit:*

I, hereby certify, that the aforegoing is a true and correct copy of the proceedings in the case of William H. Pope vs. John M. C. Williams, and John W. Harper, officers of registration, etc., for 7th election district of Montgomery county, it being No. 442 miscellaneous petitions, in the circuit court for Montgomery county.

(Seal's place.) In testimony whereof, I have hereto set my hand and affixed the seal of the circuit court for Montgomery county, this 7th day of October, A. D. 1903.

THOMAS DAWSON,
Clerk of the Circuit Court for Montgomery County.

And afterwards to wit on the 22nd day of October, 1903 the following judgment was made by said court and entered of record, to wit:

WILLIAM H. POPE
vs.
JOHN M. C. WILLIAMS and JOHN W. HARPER, Officers of Registration Constituting the Board of Registry for Election District No. 7 of Montgomery County, Maryland.

This cause came on to be heard, was taken up and arged by counsel, on consideration whereof the — finds there is no error apparent
on the record in the proceedings and judgment of the circuit
28 court for Montgomery county. It is therefore considered by
the court that the said judgment be, and the same hereby is affirmed and that the appellee- recover of the appellant their costs and charges in this court and in the court below, and that execution issue accordingly.

THOMAS PARRAN,
Clerk Court of Appeals of Maryland.

And afterwards to wit, on the 3rd day of December, 1903, the court of appeals of Maryland filed its opinion in words and figures following to wit.

29 In the Court of Appeals of Maryland.

WILLIAM H. POPE
vs.
JOHN M. C. WILLIAMS, JOHN W. HARPER, ET AL. } No. 85, O. D.

Full bench except Chief Judge McSherry.

Opinion by Page, J.

Filed Dec. 3. 1903.

30 William H. Pope, the appellant, was born in the city of London, and was brought by his parents, when less than a year old to the United States, where he has resided ever since. Before he had reached the age of twenty-one years, his father became a naturalized citizen, by reason whereof he has been for many years a naturalized citizen of the United States.

On 7 June 1902, the petitioner with his wife and child removed from the District of Columbia into Montgomery county in this State, and has since resided there, having at the time of his removal and ever since, the intention of making that place his permanent domicile, and of becoming a citizen of the State of Maryland.

31 On 29th September 1903, he applied for registration to the board of registration of the election district in Montgomery county, in which he resided, to be registered as a qualified voter; but the board refused to comply with his request, for the sole reason that he did not produce to them, as evidence of his intention to become a legal voter, an entry of his intention, made one year prior to his application in a record book kept by the clerk of Montgomery county, or a duly certified copy of said original entry, as required by section 25 B of article 33 Code of Public General Laws; (being chapter 133 of the Acts of 1902).

The petitioner admits he has not complied with the provisions of that statute, in that he did not make or register a declaration of his intention to become a citizen and resident of the State, as re-

32 qu-red by its provisions; but contend- that these provisions contravene the Constitutions of the State of Maryland and of the United States and are therefore null and void. For that reason he has filed his petition to the lower court, praying it to revise the action of the board of registry, and to order his name to be entered on the registry of voters, &c.

On demurrer a judgment was entered dismissing the petition and the petitioner has applied to this court.

As preliminary to what may hereafter be advanced in this opinion, it may be stated that this court has more than once, decided, that by the constitution of this State, the qualifications of a voter, are, that he shall be a citizen of the United States of the age of twenty-one years or upwards, who has been a resident of the State for one year and of the legislative district of Baltimore

33 city or of the county in which he may offer to vote, for six months preceding the election; that he must be registered before he can exercise his right to vote, that the legislature of the State may regulate the method of registration by establishing an uniform system of registration in which the several steps to be taken by the applicant shall be prescribed, and the kind of evidence by which his right to be registered shall be established; provided however, that under the pretence of regulating such procedure, no person can be precluded or hindered from the *the* complete enjoyment of his rights, as guaranteed to him by the Constitution of the State or of the United States. These princi*princi*ples are well established, and we do not understand them to be controverted in this case.

It may also be advisable, to state with some precision, what kind of residence it is, that will entitle a person to vote in this

34 State. He must be a citizen of the United States; but that *above* does not make him a citizen of the State of Maryland.

A person residing within the District of Columbia or in one of the Territories, is a citizen of the United States, but not of any one of the States; though it is true that one who is a citizen of a State is also a citizen of the United States.

Slaughter House cases 83 U. S.—36–130—

To become a citizen of the State, a person must reside therein, and to entitle him to the franchise he must have resided within the State at least one year & in a district six months before the election. The meare abiding in a place within the State, is not sufficient. He must "reside" there, within the meaning of — word as employed in the Constitution; and that *is* seems to be entirely clear under all the decisions, within State and elsewhere. In Mitchell *vs.* M. S. 21
35 Wallace 138, the Supreme Court said domicil is "a residence at a particular place accompanied with positive or presumptive proof of an intention to remain there for an unlimited time;" and this court in Thomas *vs.* Warner 83 Md. 20, also said, "The idea of residence is compounded of fact and intention; to effect a change of it, there must be an actual removal to another habitation, and there must be an intention of remaining there." In view of these authorities, which could be greatly multiplied, it requires no citation of cases to show, that whenever it is proposed to establish a change of residence, it is incumbent upon the party to establish by proper testimony 1st. an actual removal to another habitation and 2nd that he has the intention of remaining there. To establish the second of these propositions is sometimes difficult, and indeed impossible by clear and unambiguous evidence. Facts often exist & are proven, from which may reasonably be drawn conclusions,
36 either that he had or had not the intention to change his legal residence. To meet this difficulty and to furnish some rule, by which safer conclusion could be arrived at, it has sometimes been laid down, that to establish a change of residence, it showed at least be made to appear that the former residence has been abandoned; or *or* that the family has become seteled in the new residence and made it the centre of the family affairs. The statute we are considerining is an effort to supply another rule of evidence and in the judgment of the legislature presumably, a safer one, for solving the question of the intention of the party, in cases where he has recently moved into the State. The proof of intent in such a case, after the passage of the act, must be the record of his declaration of intent, to be made as provided in the act, and no presumptions of such intent can be otherwise proved. It provides that no person coming into the State after the passage of the act, can be
37 registered as a legal voter, until one year after his intent to become such shall be evidence- by the entry in the record book of the clerk of the county or by a certified copy thereof. The right to become a registered voter under such proof, dates from the time of the registration of the intent in the record book of the clerk, and therefore if the intent be registered less than a year be-

fore the sitting of the register of voters, but more than one year before the next election, he would be entitled to be registered as a voter of *the of* that election. The record of the declaration of intent, would show that he is entitled to be a legal voter at the time under the Constitution; and under the provisions of sec. 16 of article 33, it would be the duty of the register to so enter his name. The words, "No person coming into this State from any other State, &c. shall be entitled to registration as a legal voter of this State until one year after his in-
38 tent to become a legal voter shall be thus evidenced by such entry &c." must be construed in connection with other portions of the law governing registration; and therefore it seems to be plain that when the proof according to the legal requirement, shows that the party is entitled to vote at the next election, the board of registration cannot refuse to place his name on the registration book, so that he may vote at the next election.

We do not think this requirement is unreasonable, or hinders or deters any one from acquiring — exercising his right to vote. It is merely that persons removing into the State shall indicate their intent to become citizens & residents in the record book. No fee is chargeable against them for so doing, and none for obtaining a certified copy thereof. The entire burden is to so register, with their names, residence age and occupation. Such require-
39 ment surely cannot be regarded as unreasonable or as, in any respect imposing a burdensome or offensive condition.

Nor does the statute impose qualifications for voting, other than those prescribed by the Constitution. It leaves those qualifications precisely as they — before. It deals exclusively with the evidence necessary to establish residence, by providing what the evidence of residence shall be. This court has so recently discussed the principles applicably to a case of this kind, in Southerland vs. Norris 74 Md. 331, that, no further discussion respecting them is needed here. In that case the court had under consideration, statute that provided that all persons whose names were on the registration list, who had removed at the date of the passage of the act from the State and taken up a domicile beyond the limits of the State should be presumed to have thereby intended to abandon their residence in the State, unless within thirty days after the passage of the act,
40 they should go in person before the clerk of the court and make affidavit that when they so removed they did not intend to change their residence. By the act now in question all persons coming into the State must make the declaration of their intent to become citizens & residents of the State. It is impossible to perceive any difference in principle between the two acts, further than, that the one refers to the case of persons going out — the State, while the other applies to the case of those coming in. Neither of these acts changes the qualification of voters as provided by the Constitution and both establish a rule of evidence, by which in the one case the intention of a person leaving the State may be

ascertained, and in the other the intention of a person coming into the State. After a careful and exhaustive examination the court in Southerland case sustained the validity of the law, with respect to persons leaving the State, holding that the new rule of
41 evidence therein established violated no vested right, and imposed no unreasonable condition, so as to render the statute either oppressive or invalid.

The principles established by that case, we think are applicable to the facts of this case.

But it is also contended, that the obligation imposed by the act on persons removing into the State of the 29th day of March 1902, to make the declaration of intent, operates to impair the right of citizenship conferred by the Constitution of the United States.

The contention is, that since the adoption of the 14th amendment, the status of citizenship of a State, is dependent on the Constitution of the United States, in that, by that amendment the words "resident of a State," and "citizen of a State" are equivalent terms, "as applied to citizens of the United States," and that the act under consideration, by declaring in effect that the status of the declarant
42 shall be determined as of the date of making the declaration, refuse to give effect to a prior acquired status derived from the Constitution of the United States, and thereby abridges the "privileges or immunities" of citizens of the United States, and denies to them "the equal protection of the laws." We have already pointed out that the act does not discriminate against any person or class of persons, but merely establishes a rule of evidence, in respect to the intention of a person coming into the State. To constitute residence, within the meaning of our laws regulating the elective franchise, as well as of the fourteenth amendment, an actual abode within the State, as well as the intention of remaining must concur.

Anderderson *vs.* Watt 138 U. S. 702
Mitchell *vs.* U. S. (*supra*)
Thomas *vs.* Warner 83 Md. R. 20

43 The rule of evidence thus established, does not change the character of the residence as it existed prior to the passage of the act, but merely goes to the ascertainment of one of the constituent elements, theretofore necessary for the ascertainment of the question of residence. Moreover it is now well settled by the adjudications of the Supreme Court of the United States, that the fourteenth amendment did not add the "right of suffrage to the privilege and immunities of citizenship," and that the Constitution of the United States does not confer the right of suffrage upon any one.

Minor *vs.* Hoppersett 21 Wall. 162–178—

The scope of the series of constitutional provisions of which the fourteenth amendment is one, was clearly stated in the case of Strander *vs.* West Virginia 100 U. S. 303–312

There the court after referring to the Slaughter House cases
44 (16 Wall. 36), said, "The existence of laws in the State where the newly ema-cipated negro resided which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied, and by it (the 14th amendment) such laws were forbidden--We doubt very much whether any action of a State not directed by way of discrimination against the negroes as a class will ever be held to come within the purview of this provision." It can certainly not be contended in this case, that this act discriminates in any manner against negroes or any other class; its provisions apply to "all persons" of every class. The 14th amendment recognizes that citizens of the United States coming into the State with intent to remain, are citizens of the State; but it does not confer on them the right to vote in the State; nor deny to the State the right to declare the term- and conditions upon which its citizens may vote, provided however (under the 15th amendment) the right of citizens of the United States to vote, shall not
45 be denied or abridged on account of race, color or provi-s condition of servitude.

United States *vs.* Reese 92 U. S. 214–256.

We are therefore of the opinion the provisions of the law are not repugnant to the Constitution of the United States or of the State of Maryland.

The order of the lower court must be affirmed. Order affirmed. With costs to the app-lee—

Filed Dec. 3, 1903.

46 *Bond.*

Know all men by these presents, that we, William H. Pope, as principal, and James A. Finch as surety are held and firmly bound unto John M. C. Williams and John W. Harper in the full and just sum of two hundred and fifty dollars to be paid to the said John M. C. Williams and John W. Harper, their certain attorney, executors, administrators, or assigns: to w-ich payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this second day of November, in the year of our Lord one thousand nine hundred and three.

Whereas, lately at a term of the court of appeals of the State of Maryland, in a suit depending in said court between said
47 William H. Pope, the principal obligor herein, and said John M. C. Williams and John W. Harper, as the board of registry of election district No. 7, in Montgomery county, Maryland, a judgment was rendered against the said William H. Pope, and the said Pope having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the afore-

said suit, and a citation directed to the said Williams and Harper, citing and admonishing them to be and appear at a Supreme Court of the United States, at Washington within 30 days from the date thereof.

Now, the condition of the above obligation is such, that if the said William H. Pope shall prosecute said writ of error to effect, and answer all costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

[L. S.]
48 WM. H. POPE. [SEAL.]
[L. S.]
JAMES A. FINCH. [SEAL.]

Sealed and delivered in presence of—

LUKE C. DILLON.
E. V. DUNSTAN.

Approved by—

MELVILLE W. FULLER,
Chief Justice of the United States.

Filed Nov. 4th, 1903.

49 STATE OF MARYLAND, *set:*

I Thomas Parran clerk of the court of appeals of Maryland do hereby certify that the foregoing record is a true transcript of the record and proceedings in the case of William H. Pope *vs.* John M. C. Williams and John W. Harper, officers of registration, &c., as the same remains, on file in the clerk's, office of the said court of appeals.

And I do further certify that the said court of appeals is the highest court of law or equity in said State in which a decision can be had in said case.

Seal Court of Appeals of Maryland.

In testimony whereof, I have hereunto set my hand as clerk, and affixed the seal of the said court of appeals, this fifth day of December, A. D. 1903.

THOMAS PARRAN,
Clerk Court of Appeals of Maryland.

Endorsed on cover: File No. 19,154. Maryland court of appeals. Term No. 503. William H. Pope, plaintiff in error, *vs.* John M. C. Williams and John W. Harper, officers of registration, constituting the board of registry for election district No. 7, of Montgomery county, Maryland. Filed December 7", 1903. File No. 19,154.